

09/943,118

REMARKS

Reconsideration of the application in view of the present response is respectfully requested.

Claims 70-97 are pending in the application. The present Office Action rejects claims 70-97 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,864,584 to Boyle in view of U.S. Patent Application No. 2002/0046348 to Brustoloni.

With respect to claims 70, 80 and 89, the present Office Action states that "Boyle teaches requesting client broadcasting a data request over the network to the server and/or one or more other clients . . .," and the "requesting client then downloading the requested data across the network from the cache of a proxy server client that is caching the requested data." However, Applicant is unaware of anywhere in claims 70, 80 and 89 where the above noted elements are recited.

Likewise, while the Office Action further states that "Boyle does not teach *distributing the data* around the devices within a predetermined target period" (see, Office Action, pg. 2) (emphasis added), Applicant is also unaware, and the Office Action fails to point out, where the above noted element is recited in claims 70, 80 and 89. Thus, Applicant is unable to respond to the merits of the present Office Action as the Examiner's rejection is based on elements not recited in Applicant's claims 70, 80 and 89.

As a result, Applicant respectfully requests the Examiner reconsider this application and allow all of the claims or, at the very least, remove the finality of the present Office Action in a subsequent, non-final Office Action on the merits addressing the above noted deficiency.

Respectfully submitted,



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